

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HERON THERAPEUTICS, INC.,

Plaintiff,

v.

FRESENIUS KABI USA, LLC,

Defendant.

C.A. No. 22-985-WCB

NOTICE OF APPEAL

NOTICE is hereby given that Defendant Fresenius Kabi USA, LLC (“Fresenius Kabi”), hereby appeals to the United States Court of Appeals for the Federal Circuit from this Court’s Final Judgment entered on December 9, 2024 (D.I. 195), together with all subsidiary rulings, orders and decisions underlying that judgment, including without limitation, the Court’s Findings of Fact and Conclusions of Law (D.I. 193), claim construction order (D.I. 54), and summary judgment order (D.I. 150).

In accordance with 28 U.S.C. §§ 1913 and 1917, Rule 52 of the Federal Circuit Rules of Practice, and Federal Rule of Appellate Procedure 3(e), Fresenius Kabi submits payment of \$605.00, representing the \$600.00 filing fee and the \$5.00 statutory fee.

Date: January 7, 2025

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**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:22-cv-00985-WCB
Internal Use Only**

Heron Therapeutics, Inc. v. Fresenius Kabi USA, LLC

Assigned to: Judge William C. Bryson

Related Cases: [1:24-cv-00830-WCB](#)

[1:24-cv-00043-WCB](#)

[1:24-cv-01363-WCB](#)

[1:23-cv-01015-WCB](#)

Cause: 35:271 Patent Infringement

Date Filed: 07/27/2022

Date Terminated: 12/09/2024

Jury Demand: None

Nature of Suit: 835 Patent - Abbreviated

New Drug Application(ANDA)

Jurisdiction: Federal Question

Plaintiff

Heron Therapeutics, Inc.

represented by **Jack B. Blumenfeld**

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CERTIFIED AS A TRUE COPY:
RANDALL LOHAN, CLERK

BY: jfm
DEPUTY CLERK

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Defendant

Fresenius Kabi AG
TERMINATED: 11/04/2022

represented by **Eve H. Ormerod**
(See above for address)
TERMINATED: 11/04/2022
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Claimant

Fresenius Kabi USA, LLC

represented by **Daniel Taylor**
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Mark Russell Sperling
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ATTORNEY TO BE NOTICED


Date Filed	#	Docket Text
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07/27/2022	1	COMPLAINT for Patent Infringement - filed against Fresenius Kabi AG, Fresenius Kabi USA, LLC (Filing fee \$ 402, receipt number ADEDC-3924170.) - filed by Heron Therapeutics, Inc. (Attachments: # 1 Exhibit A-I, # 2 Civil Cover Sheet)(smg) (Entered: 07/28/2022)
07/27/2022	2	Notice, Consent and Referral forms re: U.S. Magistrate Judge jurisdiction. (smg) (Entered: 07/28/2022)
07/27/2022	3	Supplemental information for patent cases involving an Abbreviated New Drug Application (ANDA) - Date Patentee(s) Received Notice: On or about June 14, 2022. Date of Expiration of Patent: September 18, 2035.Thirty Month Stay Deadline: On or about 12/14/2024. (smg) (Entered: 07/28/2022)
07/27/2022	4	Report to the Commissioner of Patents and Trademarks for Patent/Trademark Number(s) See Attached. (smg) (Entered: 07/28/2022)
07/27/2022	5	Disclosure Statement pursuant to Rule 7.1: No Parents or Affiliates Listed filed by Heron Therapeutics, Inc. (smg) (Entered: 07/28/2022)
07/28/2022	6	Summons Issued as to Fresenius Kabi AG on 7/28/2022; Fresenius Kabi USA, LLC on 7/28/2022. (Attachments: # 1 Summons Issued Fresenius Kabi AG)(smg) (Entered: 07/28/2022)
08/01/2022	7	MOTION for Pro Hac Vice Appearance of Attorney Bruce M. Wexler, Isaac S. Ashkenazi, Christopher P. Hill, and Mark Russell Sperling - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 08/01/2022)
08/03/2022		Case Assigned to Judge Colm F. Connolly. Please include the initials of the Judge (CFC) after the case number on all documents filed. (rjb) (Entered: 08/03/2022)
08/08/2022		SO ORDERED, re 7 MOTION for Pro Hac Vice Appearance of Attorney Bruce M. Wexler, Isaac S. Ashkenazi, Christopher P. Hill, and Mark Russell Sperling filed by Heron Therapeutics, Inc. Signed by Judge Colm F. Connolly on 8/8/2022. (nmf) (Entered: 08/08/2022)
09/07/2022		Pro Hac Vice Attorney Mark Russell Sperling, Bruce M. Wexler, Christopher P. Hill, and Isaac S. Ashkenazi for Heron Therapeutics, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 09/07/2022)
09/21/2022	8	WAIVER OF SERVICE returned executed by Heron Therapeutics, Inc.: For Fresenius Kabi USA, LLC waiver sent on 8/4/2022, answer due 10/3/2022. (Tigan, Jeremy) (Entered: 09/21/2022)
09/21/2022	9	WAIVER OF SERVICE returned executed by Heron Therapeutics, Inc.: For Fresenius Kabi AG waiver sent on 8/4/2022, answer due 10/3/2022. (Tigan, Jeremy) (Entered: 09/21/2022)
09/30/2022	10	STIPULATION TO EXTEND TIME for Fresenius to move, answer, or otherwise respond to the Complaint (D.I. 1) to November 2, 2022 - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 09/30/2022)
09/30/2022		SO ORDERED, re 10 STIPULATION TO EXTEND TIME for Fresenius to move, answer, or otherwise respond to the Complaint (D.I. 1) to November 2, 2022, filed by Heron Therapeutics, Inc. Reset Answer Deadlines: Fresenius Kabi AG answer due 11/2/2022; Fresenius Kabi USA, LLC answer due 11/2/2022. Ordered by Judge Colm F. Connolly on 9/30/2022. (kmd) (Entered: 09/30/2022)

10/28/2022	11	STIPULATION TO EXTEND TIME to Answer or Otherwise Respond to the Complaint to November 16, 2022 - filed by Fresenius Kabi AG, Fresenius Kabi USA, LLC. (Ormerod, Eve) (Entered: 10/28/2022)
10/31/2022		SO ORDERED, re 11 STIPULATION TO EXTEND TIME to Answer or Otherwise Respond to the Complaint to November 16, 2022 filed by Fresenius Kabi USA, LLC, Fresenius Kabi AG. Reset Answer Deadlines: Fresenius Kabi AG answer due 11/16/2022; Fresenius Kabi USA, LLC answer due 11/16/2022. Ordered by Judge Colm F. Connolly on 10/31/2022. (kmd) (Entered: 10/31/2022)
11/04/2022	12	STIPULATION and [Proposed] Order Dismissing Without Prejudice Defendant Fresenius Kabi AG and Amending Case Caption to Reflect the Same by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 11/04/2022)
11/04/2022	13	SO ORDERED, re 12 Stipulation Dismissing Without Prejudice Defendant Fresenius Kabi AG and Amending Case Caption to Reflect the Same, filed by Heron Therapeutics, Inc. Party Fresenius Kabi AG terminated. Attorney Eve H. Ormerod terminated. Signed by Judge Colm F. Connolly on 11/4/2022. (kmd) (Entered: 11/04/2022)
11/10/2022		Case Reassigned to Judge William C. Bryson of the United States Court of Appeals for the Federal Circuit. Please include the initials of the Judge (WCB) after the case number on all documents filed. (rjb) (Entered: 11/10/2022)
11/15/2022	14	MOTION for Pro Hac Vice Appearance of Attorney Imron T. Aly, Kevin M. Nelson, and Helen H. Ji - filed by Fresenius Kabi USA, LLC. (Ormerod, Eve) (Entered: 11/15/2022)
11/16/2022	15	ANSWER to 1 Complaint <i>with Additional Defenses</i> , COUNTERCLAIM against Heron Therapeutics, Inc. by Fresenius Kabi USA, LLC.(Ormerod, Eve) (Entered: 11/16/2022)
11/16/2022	16	Disclosure Statement pursuant to Rule 7.1: identifying Corporate Parent Fresenius Kabi Pharmaceuticals Holding, LLC for Fresenius Kabi USA, LLC, Fresenius Kabi USA, LLC filed by Fresenius Kabi USA, LLC. (Belgam, Neal) (Entered: 11/16/2022)
11/17/2022	17	ORDER granting D.I. 14 Motion to Appear Pro Hac Vice of Attorney Imron T. Aly, Kevin M. Nelson, and Helen H. Ji. Signed by Judge William C. Bryson on 11/17/2022. (smg) (Entered: 11/17/2022)
12/01/2022	18	ORAL ORDER: The court will hold a telephonic Rule 16 scheduling conference on Wednesday, December 7, 2022, at 11:30am. The dial-in information and a form scheduling order will be distributed to the parties via email. Signed by Judge William C. Bryson on 12/1/2022. (dds) (Entered: 12/01/2022)
12/01/2022		Pro Hac Vice Attorney Helen H. Ji for Fresenius Kabi USA, LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mkr) (Entered: 12/01/2022)
12/05/2022		Pro Hac Vice Attorney Kevin M. Nelson, Helen H. Ji, and Imron T. Aly for Fresenius Kabi USA, LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mkr) (Entered: 12/05/2022)
12/06/2022	19	Letter to The Honorable William C. Bryson from Jeremy A. Tigan regarding Parties Joint Proposed Scheduling Order - re 18 Oral Order,. (Attachments: # 1



		Proposed Scheduling Order)(Tigan, Jeremy) (Entered: 12/06/2022)
12/07/2022		Minute Entry for proceedings held before Judge William C. Bryson: Telephonic hearing held on 12/7/2022. Counsel for all parties appeared. Court reporter present. The Court conducted a Rule 16 scheduling conference. (Total Time in Court: 30 minutes) (Court reporter Brian Gaffigan). (dds) (Entered: 12/07/2022)
12/07/2022	20	ANSWER to 15 Answer to Complaint, Counterclaim by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 12/07/2022)
12/07/2022	21	SCHEDULING ORDER: Joinder of Parties due by 8/31/2023. Discovery due by 10/27/2023. Opening Expert Reports due by 12/8/2023. Rebuttal Expert Reports due by 2/12/2024. A Bench Trial is set for 6/10/2024 at 09:00 AM before Judge William C. Bryson.. Signed by Judge William C. Bryson on 12/7/2022.(SEE SCHEDULING ORDER FOR FURTHER DETAILS) (apk) (Entered: 12/07/2022)
12/12/2022	22	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1) filed by Fresenius Kabi USA, LLC.(Ormerod, Eve) (Entered: 12/12/2022)
12/12/2022	23	MOTION for Pro Hac Vice Appearance of Attorney Chad F. Watson - filed by Fresenius Kabi USA, LLC. (Ormerod, Eve) (Entered: 12/12/2022)
12/12/2022	24	SO ORDERED, re 23 MOTION for Pro Hac Vice Appearance of Attorney Chad F. Watson filed by Fresenius Kabi USA, LLC. Signed by Judge William C. Bryson on 12/12/2022. (apk) (Entered: 12/12/2022)
12/12/2022	25	NOTICE OF SERVICE of Plaintiff's Rule 26(a)(1) Initial Disclosures filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 12/12/2022)
12/14/2022	26	STIPULATION TO EXTEND TIME for the parties to file a proposed protective order to January 3, 2023 - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 12/14/2022)
12/14/2022	27	AMENDMENT TO SCHEDULING ORDER, A 5 - Day Bench Trial is set for 6/24/2024 - 6/28/2024 at 09:00 AM before Judge William C. Bryson. Signed by Judge William C. Bryson on 12/14/2022. (srs) (Entered: 12/14/2022)
12/14/2022	28	SO ORDERED, re 26 STIPULATION TO EXTEND TIME for the parties to file a proposed protective order to January 3, 2023 filed by Heron Therapeutics, Inc. Signed by Judge William C. Bryson on 12/14/2022. (srs) (Entered: 12/14/2022)
12/14/2022		Pro Hac Vice Attorney Chad F. Watson for Fresenius Kabi USA, LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 12/14/2022)
12/16/2022	29	NOTICE OF SERVICE of Plaintiff's Accused Product Disclosure filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 12/16/2022)
01/03/2023	30	PROPOSED ORDER -- [Proposed] Stipulated Protective Order -- by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 01/03/2023)
01/03/2023	 31	Official Transcript of held on 12/7/2022 before Judge William C. Bryson. Court Reporter/Transcriber Brian P. Gaffigan, Email: gaffigan.b@outlook.com. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER Redaction Request






		due 1/24/2023. Redacted Transcript Deadline set for 2/3/2023. Release of Transcript Restriction set for 4/3/2023. (smg) (Entered: 01/03/2023)
01/04/2023	<u>32</u>	PROTECTIVE ORDER. Signed by Judge William C. Bryson on 1/4/2022. (apk) (Entered: 01/04/2023)
01/06/2023	<u>33</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Initial Disclosures Pursuant to Paragraph 3 of the Default Standard for Discovery filed by Fresenius Kabi USA, LLC.(Ormerod, Eve) (Entered: 01/06/2023)
01/06/2023	<u>34</u>	NOTICE OF SERVICE of Plaintiff's Initial Paragraph 3 Disclosures Regarding Custodians and Non-Custodial Data Sources filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 01/06/2023)
01/17/2023	<u>35</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLCs Core Technical Documents filed by Fresenius Kabi USA, LLC.(Ormerod, Eve) (Entered: 01/17/2023)
02/17/2023	<u>36</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Initial Invalidly Contentions filed by Fresenius Kabi USA, LLC.(Ormerod, Eve) (Entered: 02/17/2023)
03/17/2023	<u>37</u>	NOTICE of Withdrawal of Appearance of Delaware Counsel, Eve Ormerod by Fresenius Kabi USA, LLC (Ormerod, Eve) (Entered: 03/17/2023)
03/17/2023	<u>38</u>	NOTICE OF SERVICE of Plaintiff's Initial Infringement Contentions Against Fresenius Kabi USA, LLC filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 03/17/2023)
03/27/2023	<u>39</u>	NOTICE OF SERVICE of Plaintiff's Identification of Claim Terms for Construction filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 03/27/2023)
04/13/2023	<u>40</u>	STIPULATION and [Proposed] Order Dismissing Certain Patent Claims by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/13/2023)
04/17/2023	<u>41</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's First Set of Requests for Admission (Nos. 1-12), First Set of Requests for Production of Documents and Things (Nos. 1-97), and First Set of Interrogatories (Nos. 1-8) filed by Fresenius Kabi USA, LLC.(Belgam, Neal) (Entered: 04/17/2023)
04/18/2023	<u>42</u>	CLAIM Construction Chart by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/18/2023)
04/19/2023	<u>43</u>	NOTICE of Appearance by Daniel Taylor on behalf of Fresenius Kabi USA, LLC (Taylor, Daniel) (Entered: 04/19/2023)
04/25/2023	<u>44</u>	NOTICE OF SERVICE of (1) Heron's First Set of Interrogatories and (2) Heron's First Set of Requests for the Production of Documents and Things (Nos. 1-59) - filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 04/25/2023)
05/16/2023	<u>45</u>	CLAIM CONSTRUCTION OPENING BRIEF filed by Heron Therapeutics, Inc.. (Attachments: # <u>1</u> Exhibits 1-26)(Tigan, Jeremy) (Entered: 05/16/2023)
06/01/2023	<u>46</u>	NOTICE OF SERVICE of (1) Heron's Objections and Responses to Fresenius's First Set of Interrogatories; (2) Plaintiff's Objections and Responses to Defendant's First Set of Requests for Production of Documents and Things (Nos. 1-97); and (3) Plaintiff's Objections and Responses to Defendant's First Set of Requests for Admissions (Nos. 1-12) filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 06/01/2023)


06/06/2023	47	CLAIM CONSTRUCTION ANSWERING BRIEF re 45 Claim Construction Opening Brief filed by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A - K)(Taylor, Daniel) (Entered: 06/06/2023)
06/08/2023	48	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Responses and Objections to (1) Plaintiff's First Set of Interrogatories (Nos. 1-13) and (2) Plaintiff's First Set of Requests for Production of Document and Things (Nos. 1-59) filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 06/08/2023)
06/27/2023	49	CLAIM CONSTRUCTION REPLY BRIEF re 47 Claim Construction Answering Brief filed by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibit 27)(Tigan, Jeremy) (Entered: 06/27/2023)
07/06/2023	50	ORAL ORDER: The court will hold a telephonic Markman hearing on Monday, July 24, 2023, at 10:00 a.m. Eastern Time. The dial-in information will be distributed to the parties via email. The parties should jointly arrange for court reporting services for the hearing. Signed by Judge William C. Bryson on 7/6/2023. (dds) (Entered: 07/06/2023)
07/11/2023	51	CLAIM CONSTRUCTION SURREPLY BRIEF re 49 Claim Construction Reply Brief filed by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A)(Taylor, Daniel) (Entered: 07/11/2023)
07/21/2023	52	Letter to The Honorable William C. Bryson from Jeremy A. Tigan regarding Joint Status Report on Claim Construction. (Tigan, Jeremy) (Entered: 07/21/2023)
07/24/2023		Minute Entry for proceedings held before Judge William C. Bryson: Telephonic hearing held on 7/24/2023. Counsel for both parties appeared. The Court held a Markman hearing. (Total Time in Court: 1 hour, 40 minutes) (Court Reporter Brian Gaffigan). (dds) (Entered: 07/25/2023)
07/26/2023	 53	Official Transcript of Telephonic Claim Construction Conference held on 07/24/2023 before Judge Bryson. Court Reporter/Transcriber Brian Gaffigan, Email: gaffigan.b@outlook.com. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER Redaction Request due 8/16/2023. Redacted Transcript Deadline set for 8/28/2023. Release of Transcript Restriction set for 10/24/2023. (smg) (Entered: 07/26/2023)
07/31/2023	54	CLAIM CONSTRUCTION ORDER. Signed by Judge William C. Bryson on 07/31/2023. (rlr) (Entered: 07/31/2023)
09/12/2023	55	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's, (1) Second Set of Requests for Production of Documents and Things (Nos. 98-99); and (2) Second Set of Interrogatories (Nos. 9-10) filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 09/12/2023)
09/12/2023	56	NOTICE to Take Deposition of Heron Therapeutics, Inc. filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 09/12/2023)
09/12/2023	57	NOTICE to Take Deposition of Han Han filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 09/12/2023)
09/12/2023	58	NOTICE to Take Deposition of Thomas Ottoboni filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 09/12/2023)
09/13/2023	59	NOTICE of Withdrawal of Appearance of Chad F. Watson as counsel to Defendant Fresenius Kabi USA, LLC by Fresenius Kabi USA, LLC (Taylor, Daniel)









		(Entered: 09/13/2023)
09/19/2023	<u>60</u>	NOTICE OF SERVICE of (1) Heron's Second Set of Requests for the Production of Documents and Things (Nos. 60-61) and (2) Heron's Second Set of Interrogatories filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 09/19/2023)
09/27/2023	<u>61</u>	NOTICE OF SERVICE of Heron's Third Set of Interrogatories filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 09/27/2023)
10/04/2023	<u>62</u>	NOTICE OF SERVICE of (1) Plaintiff Heron Therapeutics, Inc.'s Rule 30(b)(6) Notice to Defendant Fresenius Kabi USA, LLC; (2) Notice of Deposition to Chunbai He Under Fed. R. Civ. P. 30(b)(1); and (3) Notice of Deposition to Chaoju Xiao Under Fed. R. Civ. P. 30(b)(1) filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 10/04/2023)
10/04/2023	<u>63</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's First Amended Objections and Responses to Plaintiff Heron Therapeutics, Inc.'s First Set of Interrogatories (Nos. 1-13) filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/04/2023)
10/09/2023	<u>64</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Objections and Responses to Plaintiff Heron Therapeutics, Inc.'s Rule 30(b)(6) Notice filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/09/2023)
10/09/2023	<u>65</u>	NOTICE to Take Deposition of Christina England filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/09/2023)
10/09/2023	<u>66</u>	NOTICE to Take Deposition of Laura Lerner filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 10/09/2023)
10/09/2023	<u>67</u>	NOTICE to Take Deposition of Francis Wong filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 10/09/2023)
10/11/2023	<u>68</u>	NOTICE OF SERVICE of (1) Heron Objections and Responses to Fresenius's Notice of Deposition to Plaintiff and (2) Heron's Supplemental Objections and Responses to Fresenius's First Set of Interrogatories filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 10/11/2023)
10/12/2023	<u>69</u>	NOTICE OF SERVICE of (1) Plaintiff's Objections and Responses to Defendant's Second Set of Requests for Production of Documents and Things (Nos. 98-99) and (2) Heron's Objections and Responses to Fresenius's Second Set of Interrogatories filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 10/12/2023)
10/18/2023	<u>70</u>	NOTICE to Take Deposition of Robert Sullivan on November 9, 2023 filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/18/2023)
10/18/2023	<u>71</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Objections and Responses to Plaintiff Heron Therapeutics, Inc.'s Second Set of Requests for the Production of Documents and Things (Nos. 60-61) and Second Set of Interrogatories (Nos. 14-17) filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/18/2023)
10/27/2023	<u>72</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Objections and Responses to Plaintiff Heron Therapeutics, Inc.'s Third Set of Interrogatories (No. 11-A) filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 10/27/2023)
10/30/2023	<u>73</u>	SUBPOENA Returned Executed as to Laura Lerner on October 26, 2023 (Taylor, Daniel) (Entered: 10/30/2023)



11/06/2023	<u>74</u>	MOTION for Pro Hac Vice Appearance of Attorney Justin T. Fleischacker - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 11/06/2023)
11/06/2023	<u>75</u>	ORDER granting D.I. <u>74</u> Motion to Appear Pro Hac Vice of Attorney Justin T. Fleischacker. Signed by Judge William C. Bryson on 11/06/2023. (rlr) (Entered: 11/07/2023)
11/07/2023	<u>76</u>	MOTION for Pro Hac Vice Appearance of Attorney Mallory McMahon - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 11/07/2023)
11/07/2023	<u>77</u>	ORDER granting D.I. <u>76</u> MOTION for Pro Hac Vice Appearance of Attorney Mallory McMahon. Signed by Judge William C. Bryson on 11/7/2023. (mpb) (Entered: 11/07/2023)
11/28/2023	<u>78</u>	NOTICE to Take Deposition of Brad Schmidt on November 30, 2023 filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 11/28/2023)
12/11/2023	<u>79</u>	NOTICE OF SERVICE of Expert Report of Steven R. Little, Ph.D. Regarding Defendant Fresenius's Infringement filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 12/11/2023)
12/12/2023	<u>80</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Highly Confidential Opening Expert Reports of Maurie Markman, M.D. and Barrett Rabinow, Ph.D. filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 12/12/2023)
01/03/2024	<u>81</u>	NOTICE to Take Deposition of Kaushik Lakkaraju on January 9, 2024 filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 01/03/2024)
01/10/2024		Pro Hac Vice Attorney Mallory McMahon for Fresenius Kabi USA, LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 01/10/2024)
01/19/2024	<u>82</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Responsive Expert Report of Barrett Rabinow, Ph.D. filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 01/19/2024)
01/22/2024	<u>83</u>	NOTICE OF SERVICE of (1) Expert Report of Michael E. Tate; (2) Rebuttal Expert Report of Jeffrey J. Hale, Ph.D.; (3) Rebuttal Expert Report of Steven R. Little, Ph.D.; and (4) Expert Report of Eric Roeland, M.D. filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 01/22/2024)
02/06/2024	<u>84</u>	STIPULATION TO EXTEND TIME for Expert Discovery to be completed - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 02/06/2024)
02/06/2024	<u>85</u>	STIPULATION AND ORDER: The parties' stipulation to extend time is granted. Signed by Judge William C. Bryson on 2/6/2024. (gva) (Entered: 02/06/2024)
02/15/2024	<u>86</u>	NOTICE OF SERVICE of Reply Expert Report of Steven R. Little, Ph.D. Regarding Defendant Fresenius's Infringement filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 02/15/2024)
02/15/2024	<u>87</u>	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Highly Confidential Reply Expert Reports of Maurie Markman, M.D., Anthony M. Masztak, and Barrett Rabinow, Ph.D. filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 02/15/2024)




02/19/2024	<u>88</u>	MOTION for Pro Hac Vice Appearance of Attorney Julie A. Vernon - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 02/19/2024)
02/19/2024	<u>89</u>	Pro Hac Vice Fee - Credit Card Payment received for Julie A. Vernon. (re <u>88</u> MOTION for Pro Hac Vice Appearance of Attorney Julie A. Vernon)(Payment of \$ 50, receipt number ADEDC-4341624).(Taylor, Daniel) (Entered: 02/19/2024)
02/20/2024	<u>90</u>	ORDER granting D.I. <u>88</u> Motion to Appear Pro Hac Vice Appearance of Attorney Julie A. Vernon. Signed by Judge William C. Bryson on 2/20/2024. (mpb) (Entered: 02/20/2024)
02/20/2024	<u>91</u>	NOTICE to Take Deposition of Dr. Eric Roeland on March 5, 2024 filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 02/20/2024)
02/20/2024	<u>92</u>	NOTICE to Take Deposition of Michael E. Tate on March 1, 2024 filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 02/20/2024)
02/20/2024		Pro Hac Vice Attorney Julie A. Vernon for Fresenius Kabi USA, LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 02/20/2024)
02/22/2024	<u>93</u>	STIPULATION TO EXTEND TIME for Expert Discovery to be completed - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 02/22/2024)
02/23/2024	<u>94</u>	STIPULATION AND ORDER regarding D.I. <u>93</u> STIPULATION TO EXTEND TIME for Expert Discovery to be completed. Signed by Judge William C. Bryson on 2/23/2024. (apk) (Entered: 02/23/2024)
03/04/2024	<u>95</u>	NOTICE to Take Deposition of Dr. Jeffrey Hale on March 21, 2024 filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 03/04/2024)
03/04/2024	<u>96</u>	NOTICE to Take Deposition of Dr. Steven Little on March 13, 2024 filed by Fresenius Kabi USA, LLC.(Taylor, Daniel) (Entered: 03/04/2024)
03/08/2024	<u>97</u>	STIPULATION and [PROPOSED] Order Dismissing certain Patents by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 03/08/2024)
03/08/2024	<u>98</u>	NOTICE of Deposition of Anthony Masztak by Heron Therapeutics, Inc. (Tigan, Jeremy) (Entered: 03/08/2024)
03/08/2024	<u>99</u>	NOTICE to Take Deposition of Dr. Maurie Markman on March 12, 2024 filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 03/08/2024)
03/08/2024	<u>100</u>	NOTICE to Take Deposition of Dr. Barrett Rabinow on March 12, 2024 filed by Heron Therapeutics, Inc..(Tigan, Jeremy) (Entered: 03/08/2024)
04/02/2024	<u>101</u>	MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D., - filed by Fresenius Kabi USA, LLC. (Attachments: # <u>1</u> Text of Proposed Order)(Taylor, Daniel) (Entered: 04/02/2024)
04/02/2024	 <u>102</u>	[SEALED] OPENING BRIEF in Support re <u>101</u> MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D., filed by Fresenius Kabi USA, LLC.Answering Brief/Response due date per Local Rules is 4/16/2024. (Attachments: # <u>1</u> Certificate of Service)(Taylor, Daniel) (Entered: 04/02/2024)
04/02/2024	 <u>103</u>	[SEALED] DECLARATION re <u>102</u> Opening Brief in Support, <i>of Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Taylor, Daniel) (Entered: 04/02/2024)


04/02/2024	104	MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. - filed by Fresenius Kabi USA, LLC. (Attachments: # 1 Text of Proposed Order)(Taylor, Daniel) (Entered: 04/02/2024)
04/02/2024	 105	[SEALED] OPENING BRIEF in Support re 104 MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. filed by Fresenius Kabi USA, LLC. Answering Brief/Response due date per Local Rules is 4/16/2024. (Attachments: # 1 Certificate of Service)(Taylor, Daniel) (Entered: 04/02/2024)
04/02/2024	 106	[SEALED] DECLARATION re 105 Opening Brief in Support, of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Taylor, Daniel) (Entered: 04/02/2024)
04/04/2024	107	Letter to The Honorable William C. Bryson from Jeremy A. Tigan regarding Request for Leave to Move for Summary Judgment. (Tigan, Jeremy) (Entered: 04/04/2024)
04/04/2024	108	MOTION for Summary Judgment - filed by Heron Therapeutics, Inc.. (Attachments: # 1 Text of Proposed Order)(Tigan, Jeremy) (Entered: 04/04/2024)
04/04/2024	 109	[SEALED] OPENING BRIEF in Support re 108 MOTION for Summary Judgment filed by Heron Therapeutics, Inc.. Answering Brief/Response due date per Local Rules is 4/18/2024. (Tigan, Jeremy) (Entered: 04/04/2024)
04/04/2024	 110	[SEALED] DECLARATION re 109 Opening Brief in Support -- <i>Declaration of Christopher P. Hill</i> -- by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibits A-P, # 2 Exhibits Q-AA)(Tigan, Jeremy) (Attachment 1 and 2 replaced on 4/11/2024 per request of counsel) (nmg). (Entered: 04/04/2024)
04/04/2024	 111	[SEALED] DECLARATION re 109 Opening Brief in Support -- <i>Declaration of Steven R. Little, Ph.D.</i> -- by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibit H, # 2 Exhibit J, # 3 Exhibit L)(Tigan, Jeremy) (Entered: 04/04/2024)
04/05/2024	112	ORAL ORDER: Heron has requested leave to move for summary judgment of noninfringement and no indefiniteness. If Fresenius intends to oppose the motion for leave, it should do so by Tuesday, April 9, 2024, at 3:00 p.m. Eastern Time. Signed by Judge William C. Bryson on 4/5/2024. (gva) (Entered: 04/05/2024)
04/05/2024	113	ORAL ORDER: Heron has requested leave to move for summary judgment of noninfringement and no indefiniteness. If Fresenius intends to oppose the motion for leave, it should do so by Tuesday, April 9, 2024, at 3:00 p.m. Eastern Time. Signed by Judge William C. Bryson on 4/5/2024. (gva) (Entered: 04/05/2024)
04/09/2024	114	Letter to The Honorable William C. Bryson from Daniel A. Taylor regarding Defendant Fresenius Kabi USA, LLC's Opposition to Plaintiff's Motion for Leave D.I. 107 . (Taylor, Daniel) (Entered: 04/09/2024)
04/09/2024	115	ORAL ORDER: Heron has represented that a motion for summary judgment is likely to reduce the number of issues for trial. Dkt. No. 107. Fresenius opposes Heron's motion, arguing that factual issues remain with respect to the disputed issues and that considering a motion for summary judgment is inappropriate because it will consume unnecessary resources and is unlikely to substantially narrow the case. The court agrees with Heron that considering a motion for summary judgment is appropriate at this time. Heron's motion for leave is therefore GRANTED. Fresenius' response brief is due by Tuesday, April 23, 2024, at 5:00 p.m. Eastern Time. Heron's reply brief is due by Tuesday, April 30, 2024, at



		5:00 p.m. Eastern Time. Signed by Judge William C. Bryson on 4/9/2024. (gva) (Entered: 04/09/2024)
04/09/2024	116	REDACTED VERSION of 102 Opening Brief in Support, <i>MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D.</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 04/09/2024)
04/09/2024	117	REDACTED VERSION of 103 Declaration of <i>Julie A. Vernon in Support of D.I. 102 MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D.</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Taylor, Daniel) (Entered: 04/09/2024)
04/09/2024	118	REDACTED VERSION of 105 Opening Brief in Support, <i>MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 04/09/2024)
04/09/2024	119	REDACTED VERSION of 106 Declaration, of <i>Julie A. Vernon in Support of D.I. 105 MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D.</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Taylor, Daniel) (Entered: 04/09/2024)
04/11/2024	120	REDACTED VERSION of 109 Opening Brief in Support by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/11/2024)
04/11/2024	121	REDACTED VERSION of 110 Declaration, by Heron Therapeutics, Inc.. (Attachments: # 1 Exs. A-P, # 2 Exs. Q-AA)(Tigan, Jeremy) (Entered: 04/11/2024)
04/11/2024	122	REDACTED VERSION of 111 Declaration by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibit H, # 2 Exhibit J, # 3 Exhibit L)(Tigan, Jeremy) (Entered: 04/11/2024)
04/12/2024	123	REVISED SCHEDULING ORDER: This order supplements the previous scheduling order in this case, Dkt. No. 21 . A Pretrial Conference is scheduled for June 14, 2024 at 2:00 p.m. Eastern Time. A 5-Day Jury Trial is scheduled to begin on June 24, 2024 in a location to be determined. (See Order for further details) Signed by Judge William C. Bryson on 4/12/2024. (mpb) (Entered: 04/12/2024)
04/12/2024	124	STIPULATION TO EXTEND TIME for: (1) Fresenius to file its answering brief in opposition to Heron's Motion for Summary Judgment to April 25, 2024; and (2) Heron to file its reply in support of its Motion to May 6, 2024 - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/12/2024)
04/15/2024	125	STIPULATION AND ORDER regarding D.I. 124 STIPULATION TO EXTEND TIME for (1) Fresenius to file its answering brief in opposition to Heron's Motion for Summary Judgment to April 25, 2024; and (2) Heron to file its reply in support of its Motion to May 6, 2024. No further extensions will be granted. (See Order for further details.) Signed by Judge William C. Bryson on 04/15/2024. (vfm) (Entered: 04/15/2024)
04/15/2024		Set Briefing Schedule: Regarding D.I. 108 MOTION for Summary Judgment . Answering Brief due 4/25/2024. Reply Brief due 5/6/2024. (vfm) (Entered: 04/15/2024)
04/16/2024	 126	[SEALED] ANSWERING BRIEF in Opposition re 101 MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D., filed by Heron Therapeutics, Inc..Reply Brief due date per Local Rules is 4/23/2024. (Tigan, Jeremy) Exhibits removed on 4/17/2024 per request of counsel (nmg). (Entered: 04/16/2024)





04/16/2024	 127	[SEALED] DECLARATION re 126 Answering Brief in Opposition, <i>Declaration of Christopher P. Hill in Support of Plaintiff's Opposition to Defendant's Motion to Exclude Opinion and Testimony of Dr. Hale</i> -- by Heron Therapeutics, Inc.. (Attachments: # 1 Ex. A, # 2 Ex. B, # 3 Ex. C, # 4 Ex. D, # 5 Ex. E)(Tigan, Jeremy) (Entered: 04/16/2024)
04/16/2024	 128	[SEALED] ANSWERING BRIEF in Opposition re 104 MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. filed by Heron Therapeutics, Inc..Reply Brief due date per Local Rules is 4/23/2024. (Tigan, Jeremy) (Entered: 04/16/2024)
04/16/2024	 129	[SEALED] DECLARATION re 128 Answering Brief in Opposition -- <i>Declaration of Mark Russell Sperling in Support of Plaintiff's Answering Brief in Opposition to Defendant's Daubert Motion Regarding Certain Opinions of Dr. Steven Little</i> -- by Heron Therapeutics, Inc.. (Attachments: # 1 Ex. A, # 2 Ex. B, # 3 Ex. C, # 4 Ex. D, # 5 Ex. E, # 6 Ex. F, # 7 Ex. G, # 8 Ex. H, # 9 Ex. I)(Tigan, Jeremy) (Entered: 04/16/2024)
04/23/2024	130	REDACTED VERSION of 126 Answering Brief in Opposition, by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/23/2024)
04/23/2024	131	REDACTED VERSION of 127 Declaration, by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibits A-E)(Tigan, Jeremy) (Entered: 04/23/2024)
04/23/2024	132	REDACTED VERSION of 128 Answering Brief in Opposition by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 04/23/2024)
04/23/2024	133	REDACTED VERSION of 129 Declaration, by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibits A-I)(Tigan, Jeremy) (Entered: 04/23/2024)
04/23/2024	134	REPLY BRIEF re 101 MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D., filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 04/23/2024)
04/23/2024	 135	[SEALED] DECLARATION re 134 Reply Brief of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit E, # 2 Exhibit F, # 3 Exhibit G, # 4 Certificate of Service)(Taylor, Daniel) (Entered: 04/23/2024)
04/23/2024	 136	[SEALED] REPLY BRIEF re 104 MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. filed by Fresenius Kabi USA, LLC. (Attachments: # 1 Certificate of Service)(Taylor, Daniel) (Entered: 04/23/2024)
04/23/2024	137	DECLARATION re 136 Reply Brief of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit H)(Taylor, Daniel) (Entered: 04/23/2024)
04/25/2024	 138	[SEALED] ANSWERING BRIEF in Opposition re 108 MOTION for Summary Judgment filed by Fresenius Kabi USA, LLC.Reply Brief due date per Local Rules is 5/2/2024. (Attachments: # 1 Certificate of Service)(Taylor, Daniel) (Entered: 04/25/2024)
04/25/2024	 139	[SEALED] DECLARATION re 138 Answering Brief in Opposition of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit F)(Taylor, Daniel) (Entered: 04/25/2024)
04/25/2024	 140	[SEALED] DECLARATION re 138 Answering Brief in Opposition of <i>Barrett Rabinow, Ph.D.</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit E) (Taylor, Daniel) (Entered: 04/25/2024)

04/30/2024	141	REDACTED VERSION of 135 Declaration of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit E, # 2 Exhibit F, # 3 Exhibit G)(Taylor, Daniel) (Entered: 04/30/2024)
04/30/2024	142	REDACTED VERSION of 136 Reply Brief in support of 104 Motion to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 04/30/2024)
04/30/2024	143	REQUEST for Oral Argument by Fresenius Kabi USA, LLC re 104 MOTION to Exclude the Opinions and Testimony of Steven R. Little, Ph.D. , 101 MOTION to Exclude the Opinions and Testimony of Jeffrey J. Hale, Ph.D., . (Taylor, Daniel) (Entered: 04/30/2024)
05/02/2024	144	REDACTED VERSION of 138 Answering Brief in Opposition to 108 Plaintiff's Motion for Summary Judgment by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 05/02/2024)
05/02/2024	145	REDACTED VERSION of 139 Declaration of <i>Julie A. Vernon</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit F)(Taylor, Daniel) (Entered: 05/02/2024)
05/02/2024	146	REDACTED VERSION of 140 Declaration of <i>Barrett Rabinow, Ph.D.</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit E)(Taylor, Daniel) (Entered: 05/02/2024)
05/03/2024	147	REVISED SCHEDULING ORDER: A Pretrial Conference is set for 6/14/2024 at 02:00 PM before Judge William C. Bryson., A 5 Day Bench Trial is set for 6/24/2024 - 6/28/2024 at 09:30 AM in the Howard T. Markey National Courts Building, 717 Madison Place, NW, Washington, DC 20439 before Judge William C. Bryson. References to a jury trial have been removed. Signed by Judge William C. Bryson on 5/3/2024 (PLEASE SEE ORDER FOR FURTHER DETAILS AND DATES) (apk) (Entered: 05/03/2024) (Entered: 05/03/2024)
05/06/2024	 148	[SEALED] REPLY BRIEF re 108 MOTION for Summary Judgment filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 05/06/2024)
05/13/2024	149	REDACTED VERSION of 148 Reply Brief by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 05/13/2024)
05/15/2024	 150	MEMORANDUM OPINION AND ORDER: (1) Fresenius's motion to exclude certain opinions of Dr. Hale is GRANTED IN PART. Paragraphs 17 and 28 of his opening report are excluded. (2) Fresenius's motion to exclude the opinions of Dr. Little is GRANTED IN PART. Paragraph 54 of his reply report is excluded, and Dr. Little may not testify that the physical stability limitations or method claims are met under the doctrine of equivalents. (3) Heron's motion for summary judgment of claims 111 of the 229 patent is GRANTED. (4) Heron's motion for summary judgment of claims 111 of the 794 patent is DENIED. (5) Heron's motion for summary judgment of claims 1221 of the both the 229 and 794 patents is DENIED. (6) Heron's motion for summary judgment of no indefiniteness is GRANTED. (See Order for further details.) Signed by Judge William C. Bryson on 05/15/2024. (vfm) (Entered: 05/15/2024)
05/21/2024	151	STIPULATION TO EXTEND TIME for the parties to advise the Court by letter whether they wish any portions of 150 MEMORANDUM OPINION AND ORDER to remain under seal to May 24, 2024 - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 05/21/2024)

05/22/2024	152	SO ORDERED, re 151 STIPULATION TO EXTEND TIME for the parties to advise the Court by letter whether they wish any portions of 150 MEMORANDUM OPINION AND ORDER to remain under seal to May 24, 2024. Signed by Judge William C. Bryson on 5/22/2024. (mpb) (Entered: 05/22/2024)
05/24/2024	 153	[SEALED] Letter to The Honorable William C. Bryson from Daniel A. Taylor regarding Defendant Fresenius Kabi USA, LLC's Proposed Redactions to 150 MEMORANDUM and ORDER on the Pretrial Motions. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Certificate of Service)(Taylor, Daniel) (Entered: 05/24/2024)
05/24/2024	154	NOTICE OF SERVICE of Defendant Fresenius Kabi USA, LLC's Notice of Prior Art Under 35 U.S.C. Section 282 filed by Fresenius Kabi USA, LLC.(Belgam, Neal) (Entered: 05/24/2024)
06/03/2024	155	Letter to The Honorable William C. Bryson from Anthony D. Raucci regarding status of exhibit objections - re 147 Order,, Terminate Scheduling Order Deadlines,, Set Scheduling Order Deadlines,. (Attachments: # 1 List of Disputes, # 2 PTX-002, # 3 PTX-004, # 4 PTX-005, # 5 PTX-006, # 6 PTX-007, # 7 PTX-085, # 8 PTX-098, # 9 PTX-103, # 10 DTX-041)(Raucci, Anthony) (Entered: 06/03/2024)
06/05/2024	156	REDACTED VERSION of 153 Letter, <i>regarding Defendant Fresenius Kabi USA, LLC's Proposed Redactions to 150 MEMORANDUM and ORDER on the Pretrial Motions</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 06/05/2024)
06/10/2024	 157	[SEALED] Proposed Pretrial Order by Heron Therapeutics, Inc.. (Attachments: # 1 Exhibits 1-16)(Tigan, Jeremy) (Entered: 06/10/2024)
06/11/2024	158	Letter to The Honorable William C. Bryson from Jeremy A. Tigan regarding case narrowing. (Tigan, Jeremy) (Entered: 06/11/2024)
06/14/2024		Minute Entry for proceedings held before Judge William C. Bryson - Pretrial Conference held on 6/14/2024. (Court Reporter Matthew Goldstein.) (gva) (Entered: 06/14/2024)
06/17/2024	159	STIPULATION TO EXTEND TIME for the parties to file a redacted version of the Joint Proposed Pretrial Order (D.I. 157) to July 2, 2024 - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 06/17/2024)
06/18/2024	 160	[SEALED] PRETRIAL ORDER Signed by Judge William C. Bryson on 6/18/2024.This order has been emailed to local counsel. (mpb) (Entered: 06/18/2024)
06/19/2024	161	MOTION for Pro Hac Vice Appearance of Attorney Kedar Venkataramani and Stephen Kruse - filed by Heron Therapeutics, Inc.. (Raucci, Anthony) (Entered: 06/19/2024)
06/19/2024	162	Pro Hac Vice Fee - Credit Card Payment received for Kedar Venkataramani and Stephen Kruse. (re 161 MOTION for Pro Hac Vice Appearance of Attorney Kedar Venkataramani and Stephen Kruse)(Payment of \$ 100, receipt number ADEDC-4433561).(Raucci, Anthony) (Entered: 06/19/2024)
06/19/2024	163	Joint MOTION and [Proposed] Order regarding Personal Electronic Devices and Trial Equipment - filed by Heron Therapeutics, Inc.. (Raucci, Anthony) (Entered: 06/19/2024)
06/20/2024	164	ORDER granting 161 Motion to Appear Pro Hac Vice of Attorney Kedar Venkataramani and Stephen Kruse. Signed by Judge William C. Bryson on

		6/20/2024. (jfm) (Entered: 06/20/2024)
06/20/2024	165	STIPULATION AND ORDER: The deadline for the parties to file a redacted version of the Joint Proposed Pretrial Order (D.I. 157) is extended to July 2, 2024. Signed by Judge William C. Bryson on 6/20/2024. (apk) (Entered: 06/20/2024)
06/20/2024	166	ORDER: Attorneys, support staff, clients, and witnesses involved in trial be permitted to keepin their possession in court their electronic devices, including but not limited to phones, tablets,laptop computers, and charging devices, as well as all necessary trial equipment (including computer monitors, audio system, and overhead projector), during the June 20, 2024 and June21, 2024 courtroom setup and the trial set to begin June 24, 2024. Signed by Judge William C. Bryson on 6/20/2024. (apk) (Entered: 06/20/2024)
06/21/2024	167	Joint STIPULATION and [PROPOSED] Order Amending Timing of Certain Scheduling Order Exchanges re 160 Pretrial Order <i>filed</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 06/21/2024)
06/21/2024	168	STIPULATION AND ORDER regarding D.I. 167 Joint STIPULATION and [PROPOSED] Order Amending Timing of Certain Scheduling Order Exchanges regarding D.I. 160 Pretrial Order. Signed by Judge William C. Bryson on 6/21/2024. (apk) (Entered: 06/21/2024)
06/21/2024	169	Joint Letter to The Honorable William C. Bryson from Daniel A. Taylor regarding Claims to be Addressed at Trial. (Taylor, Daniel) (Entered: 06/21/2024)
06/22/2024	170	STATEMENT <i>Defendant Fresenius Kabi USA LLC's Opening Statement, pursuant to 160 Pretrial Order</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 06/22/2024)
06/22/2024	 171	[SEALED] STATEMENT re 160 Pretrial Order -- <i>Plaintiff Heron Therapeutics, Inc.'s Opening Statement</i> -- by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 06/22/2024)
06/23/2024	172	Joint MOTION and [PROPOSED] Order Narrowing Claims and Counterclaims for Trial - filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 06/23/2024)
06/24/2024		Minute Entry for proceedings held before Judge William C. Bryson - Bench Trial day 1 held on 6/24/2024. (Court Reporter Matthew Goldstein.) (gva) Modified on 7/23/2024 - corrected statistical data (rjb). (Entered: 06/28/2024)
06/25/2024		Minute Entry for proceedings held before Judge William C. Bryson - Bench Trial day 2 held on 6/25/2024. (Court Reporter Matthew Goldstein.) (gva) Modified on 7/23/2024 - corrected statistical data (rjb). (Entered: 06/28/2024)
06/26/2024		Minute Entry for proceedings held before Judge William C. Bryson - Bench Trial day 3 held on 6/26/2024. (Court Reporter Matthew Goldstein.) (gva) Modified on 7/23/2024 - corrected statistical data (rjb). (Entered: 06/28/2024)
06/27/2024		Minute Entry for proceedings held before Judge William C. Bryson - Bench Trial completed on 6/27/2024. (Court Reporter Matthew Goldstein.) (gva) Modified on 7/23/2024 - corrected statistical data (rjb). (Entered: 06/28/2024)
06/28/2024	173	ORAL ORDER: The parties are directed to file simultaneous opening briefs of up to 60 pages by July 30, 2024, by 5:00 p.m. Eastern Time. Simultaneous responsive briefs of up to 30 pages will be due by August 15, 2024, at 5:00 p.m. Eastern Time. An oral argument will be held by Zoom during the week of August 26, 2024, at a

		date to be determined. Signed by Judge William C. Bryson on 6/28/2024. (gva) (Entered: 06/28/2024)
06/28/2024	174	ORDER: The Joint MOTION and [PROPOSED] Order Narrowing Claims and Counterclaims for Trial (D.I. 172) is GRANTED. (See Order for further details) Signed by Judge William C. Bryson on 6/28/2024. (mpb) (Entered: 06/28/2024)
07/01/2024	175	REDACTED VERSION of 171 Statement by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 07/01/2024)
07/02/2024	176	REDACTED VERSION of 157 Proposed Pretrial Order by Heron Therapeutics, Inc.. (Attachments: # 1 Exs. 1-16)(Tigan, Jeremy) (Entered: 07/02/2024)
07/30/2024	177	MOTION for Pro Hac Vice Appearance of Attorney Karthik R. Kasaraneni - filed by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Main Document 177 replaced on 7/30/2024) (mpb). (Entered: 07/30/2024)
07/30/2024	178	Pro Hac Vice Fee - Credit Card Payment received for Karthik R. Kasaraneni. (re 177 MOTION for Pro Hac Vice Appearance of Attorney Karthik R. Kasaraneni)(Payment of \$ 50, receipt number ADEDC-4463917).(Tigan, Jeremy) (Entered: 07/30/2024)
07/30/2024		CORRECTING ENTRY: Per Counsel's request, D.I. 177 has been replaced to reflect the correct number of pages. (mpb) (Entered: 07/30/2024)
07/30/2024	 179	[SEALED] POST TRIAL BRIEF <i>Post Trial Opening Brief</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Certificate of Service)(Taylor, Daniel) (Entered: 07/30/2024)
07/30/2024	180	POST TRIAL BRIEF -- <i>Heron's Opening Post-Trial Brief</i> -- by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 07/30/2024)
08/06/2024	181	ORDER granting 177 MOTION for Pro Hac Vice Appearance of Attorney Karthik R. Kasaraneni. Signed by Judge William C. Bryson on 8/6/2024. (jfm) (Entered: 08/06/2024)
08/06/2024	182	REDACTED VERSION of 179 POST Trial Brief by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 08/06/2024)
08/09/2024	183	ORAL ORDER: The court will hold an oral argument regarding the findings of fact and conclusions of law over Zoom on Thursday, August 29, 2024, at 10:00 a.m. Eastern Time. Each party will be allotted 45 minutes to argue its position. The Zoom information will be distributed to the parties via email. The parties will be jointly responsible for ensuring that a court reporter is present on the call. Signed by Judge William C. Bryson on 8/9/2024. (gva) (Entered: 08/09/2024)
08/15/2024	 184	[SEALED] POST TRIAL BRIEF <i>Post Trial Answering Brief</i> by Fresenius Kabi USA, LLC. (Attachments: # 1 Certificate of Service)(Taylor, Daniel) (Entered: 08/15/2024)
08/15/2024	185	POST TRIAL BRIEF (<i>Responsive</i>) - by Heron Therapeutics, Inc.. (Tigan, Jeremy) (Entered: 08/15/2024)
08/20/2024	186	Letter to The Honorable William C. Bryson from Jeremy A. Tigan regarding Hyperlinked Versions of Plaintiff's Post-Trial Briefing - re 180 POST Trial Brief, 185 POST Trial Brief. (Tigan, Jeremy) (Entered: 08/20/2024)
08/20/2024	187	Letter to The Honorable William C. Bryson from Neal C. Belgam regarding Hyperlinked Versions of Defendant's Post-Trial Briefing - re 184 POST Trial Brief, 179 POST Trial Brief. (Belgam, Neal) (Entered: 08/20/2024)

08/22/2024	188	REDACTED VERSION of 184 POST Trial Brief <i>Post Trial Answering Brief</i> by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 08/22/2024)
10/01/2024	 189	REDACTED TRANSCRIPT of proceedings held before Judge William C. Bryson - Bench Trial day 1 held on 6/24/2024. (Court Reporter Matthew Goldstein. Phone: (202) 232-0646). (rlr) (Entered: 10/01/2024)
10/01/2024	 190	REDACTED TRANSCRIPT of proceedings held before Judge William C. Bryson - Bench Trial day 2 held on 6/25/2024. (Court Reporter Matthew Goldstein. Phone: (202) 232-0646). (rlr) (Entered: 10/01/2024)
10/01/2024	 191	REDACTED TRANSCRIPT of proceedings held before Judge William C. Bryson - Bench Trial day 3 held on 6/26/2024. (Court Reporter Matthew Goldstein. Phone: (202) 232-0646). (rlr) (Entered: 10/01/2024)
10/01/2024	 192	REDACTED TRANSCRIPT of proceedings held before Judge William C. Bryson - Bench Trial day 4 held on 6/27/2024. (Court Reporter Matthew Goldstein. Phone: (202) 232-0646). (rlr) (Entered: 10/01/2024)
12/03/2024	193	[UNSEALED on 12/16/2024] FINDINGS OF FACT AND CONCLUSIONS OF LAW Signed by Judge William C. Bryson on 12/03/2024.This order has been emailed to local counsel. (mpb) Modified on 12/16/2024 (mpb). (Entered: 12/03/2024)
12/08/2024	194	PROPOSED ORDER Heron's [Proposed] Final Judgment by Heron Therapeutics, Inc.. (Attachments: # 1 Cover Letter)(Tigan, Jeremy) (Entered: 12/08/2024)
12/09/2024	195	FINAL JUDGMENT (CASE CLOSED) Signed by Judge William C. Bryson on 12/9/2024. (mpb) (Entered: 12/09/2024)
12/09/2024	196	FINAL Report to the Commissioner of Patents and Trademarks for Patent/Trademark Number(s) See Attached. (mpb) (Entered: 12/09/2024)
12/10/2024	197	Letter to The Honorable William C. Bryson from Daniel A. Taylor regarding Redactions to 193 Findings of Fact and Conclusions of Law. (Taylor, Daniel) (Entered: 12/10/2024)
01/07/2025	198	NOTICE OF APPEAL to the Federal Circuit of 195 Judgment . Appeal filed by Fresenius Kabi USA, LLC. (Taylor, Daniel) (Entered: 01/07/2025)
01/07/2025		APPEAL - Credit Card Payment received re 198 Notice of Appeal (Federal Circuit) filed by Fresenius Kabi USA, LLC. (Filing fee \$605, receipt number ADEDC-4584266.) (Taylor, Daniel) (Entered: 01/07/2025)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HERON THERAPEUTICS, INC.,

Plaintiff,

v.

FRESENIUS KABI USA, LLC,

Defendant.

C.A. No. 22-985-WCB

FINAL JUDGMENT

1. Final Judgment is entered in favor of Plaintiff Heron Therapeutics, Inc. (“Heron”) and against Defendant Fresenius Kabi USA, LLC (“Fresenius”)¹ on all claims and counterclaims with respect to United States Patent No. 9,561,229 (“the ’229 patent”) and United States Patent No. 9,974,794 (“the ’794 patent”). The court holds that the manufacture, use, offer for sale, or sale within the United States, or importation into the United States, of Fresenius’s Abbreviated New Drug Application (“ANDA”) product that is the subject of ANDA No. 214639 before the expiration of these patents would infringe claims 9, 10, and 21 of the ’229 patent and claims 9 and 10 of the ’794 patent. The court also holds that claims 9, 10, and 21 of the ’229 patent and claims 9 and 10 of the ’794 patent are not invalid.

2. Pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any approval of Fresenius’s ANDA No. 214639 shall be no earlier than the latest date of expiration of the ’229 and

¹ Pursuant to the Stipulation and Order Dismissing Without Prejudice Defendant Fresenius Kabi AG and Amending Caption to Reflect the Same (D.I. 13 ¶ 1), Fresenius Kabi AG is bound by this Final Judgment, as well as any stipulation, decision, order, or judgment, including any injunction, rendered as to Fresenius in this action.

'794 patents. If Heron becomes entitled to any other exclusivities that are not referenced herein, Heron may apply to the court for further relief as may be appropriate.

3. Pursuant to 35 U.S.C. § 271(e)(4)(B), Fresenius is hereby enjoined from making, using, offering to sell, or selling within the United States, or importing into the United States, the product that is the subject of ANDA No. 214639 until no earlier than the latest date of expiration of the '229 and '794 patents.

4. In accordance with 21 C.F.R. § 314.107(e), Fresenius shall submit a copy of this Final Judgment to the FDA within fourteen (14) days of the date of entry of this Final Judgment by the Court.

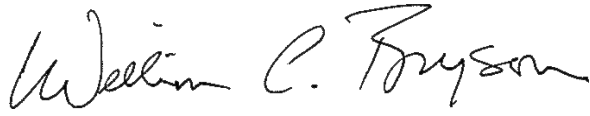
5. Pursuant to Fed. R. Civ. P. 54, D. Del. LR 54.1, and 28 U.S.C. § 1920, Heron may seek its costs, subject to Paragraphs 6 and 7, in an amount to be determined by the Clerk of the Court.

6. In the event that a party appeals this Final Judgment, any motion for attorneys' fees or submission of a bill of costs, including any motion that this case is exceptional under 35 U.S.C. § 285, shall be considered timely if filed within 60 days after the expiration of the time to petition for certiorari to the United States Supreme Court or, if the appeal is withdrawn or dismissed, within 60 days after such withdrawal or dismissal.

7. In the event that no party appeals this Final Judgment, any motion for attorneys' fees or submission of a bill of costs, including any motion that this case is exceptional under 35 U.S.C. § 285, shall be considered timely if filed within 60 days after the expiration of the time for filing a notice of appeal under Fed. R. App. P. 3 and 4.

IT IS SO ORDERED.

SIGNED this 9th day of December, 2024.

A handwritten signature in black ink, reading "William C. Bryson". The signature is written in a cursive style with a horizontal line underneath the name.

WILLIAM C. BRYSON
UNITED STATES CIRCUIT JUDGE